

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested in view of the amendments and remarks made herein.

Pending claims:

Upon entry of this amendment, claims 1 and 3-25 are pending, of which claims 3, 6-13, and 19-25 have been withdrawn from consideration. Claim 2 has been cancelled, and no new claims have been added.

Claims 1, 4, 19, and 23 are in independent form.

Petition for extension of time:

In accordance with 37 C.F.R. § 1.136(a), Applicants hereby petition for an extension of time sufficient to permit entry of the present amendment. The Petition Fee under 37 C.F.R. § 1.17(a) should be charged to Deposit Account No. 502-927.

Formal issues:

No formal issues have been noted in the pending Official Action.

Patentability:

Claims 1, 2, 4, 5, 14, 16, and 18 have been rejected under 35 U.S.C. 102(e) as being anticipated by Ramadan et al.

Applicants appreciate the Examiner's indication that claims 15 and 17 contain patentable subject matter.

Independent claim 1 has been amended to include certain subject matter from previously pending claim 2.

As seen in Figure 5 in the present application, for example, an intervertebral prosthesis generally comprises opposing assemblies of a fixing element (40 or 40') and a respective prosthesis element. Each prosthesis element can be comprised of two separate parts 64, 66, as seen in Figure 5, for example. It is disclosed in the present application that the provision of separate parts making up each prosthesis element facilitates insertion of the respective, relatively slender parts 64, 66 in between respective vertebrae. (See, for example, paragraph 0076.)

As such, amended claim 1 recites, in pertinent part:

...wherein the first prosthesis element comprises two distinct parts, each of the two distinct parts comprising the first prosthesis element having respective surfaces arranged so as to collectively define the active first face,

wherein the second prosthesis element comprises two distinct parts, each of the two distinct parts comprising the second prosthesis element having respective surfaces arranged so as to collectively define the active second face...

It is believed that this wording is distinguishable over the Examiner's interpretation at the top of page 3 of the Official Action. Ramadan et al. do not teach or suggest that each prosthesis element is made of two distinct parts in the manner claimed. Claim 1 is therefore believed to be patentable over Ramadan et al., as are the claims depending therefrom.

Independent claim 4 sets forth the structure of the prosthesis elements in a similar manner, thereby also excluding the Examiner's proposed interpretation at page 3 of the Official Action. Claim 4 is therefore also believed to be patentable over Ramadan et al., as are the claims depending therefrom.

Application of BELLIARD et al.
Appln. No. 10/735,603
Confirmation No. 1725

Conclusion:

In view of the foregoing, favorable reconsideration on the merits is solicited. Should the Examiner feel a further telephonic discussion regarding this application would be useful, she is invited to contact Applicant's undersigned attorney by email or by fax so that the necessary arrangements can be made.

Respectfully submitted,

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